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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,631	03/04/2002	Rodney Merry	1023-043US01	9152
28863	7590	08/18/2004	EXAMINER	
SHUMAKER & SIEFFERT, P. A. 8425 SEASONS PARKWAY SUITE 105 ST. PAUL, MN 55125			LAYNO, CARL HERNANDZ	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,631

Applicant(s)

MERRY, RODNEY

Examiner

Carl H. Layno
8/16/04

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 30 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 10-27 and 31-33 is/are allowed.
- 6) ☒ Claim(s) 28, 29, 34, 35 and 37 is/are rejected.
- 7) ☒ Claim(s) 36 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Acknowledgment is made of applicant's amendment which was received by the Office on July 12, 2004.

2. Claims 9 and 30 are canceled. Claims 34-38 have been added. Claims 1-8, 10-29, and 31-38 are active.

Drawings

3. Applicant's formal drawings were received by the Office on July 12, 2003.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "crash cart" of claims 10, 28, 34, 35, 37, and 38 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

Art Unit: 3762

renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. Upon further reconsideration of applicant's arguments and amendments to the claims, the Examiner is withdrawing the 35 U.S.C 102(b) and 102(e) rejections of Foster et al '651 and Frangesch et al '146-B2, respectively, which were made against claims 1, 4, 11, 13-16, 20, 28, and 29 in the last Office action.

5. Applicant's arguments with respect to claims 28 and 29 have been considered but are moot in view of the following new ground(s) of rejection.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al '795, Steele '995, or Phaneuf et al '842.

Art Unit: 3762

The Brown et al '795 patent describes a "crash cart" used for moving equipment in a hospital (Figs.1-3). The cart 10 includes a defibrillator 40 (Fig.3) mounted to the top of the cart and located on a rotatable shelf/platform 38 (col.3, lines 9-27). The use of a "base" coupled to the crash cart would be inherent since the shelf has been defined as being "rotatable" (col.3, lines 13 and 24-25), presumably, relative to the body of the crash cart.

The Steele '995 patent also describes a "crash cart" (Fig.1) equipped with a swiveling tray/platform (not numbered) located on its top surface for mounting a defibrillator (see Description for Fig.1). The tray appears to be clearly shown with a base coupled to the crash cart and also attached rotatably to the platform/tray.

The Phaneuf et al '842 patent also describes a "crash cart"(Figs.1 and 2) showing a pivoting platform 72, which can rotate in a circular fashion (see reference numeral 73), and including a base 74. The platform may be sized to receive different dimension "monitor-defibrillators" (col.4, lines 50-51).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 34, 35, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phaneuf et al '842 or Brown et al '795 in view of Frangesch et al '146-B2.

Art Unit: 3762

Though the Phaneuf et al '842 and Brown et al '795 patents, cited above, include many of applicant's claimed features, they do not specify positive locking mechanisms for "engaging" the defibrillator, in the manner claimed by the applicant.

The Frangesch et al '146-B2, cited in the last Office action by the Examiner, describes a general purpose swiveling platform (Figs.1-7), which uses a positive coupling mechanism **20** (Fig.2) for securing medical monitoring devices in place on the platform.

To have provided a coupling mechanism of the type described by Frangesch et al '146-B2 on either the Brown et al '795 or Phaneuf et al '842 pivoting platforms would have been obvious to one of ordinary skill since, according to Brown et al, its platform/shelf may be "adapted for receiving equipment such as a defibrillator thereon" (col.2, lines 20-21). Similarly, the Phaneuf et al is already currently equipped with sliding side panels **76,78** (Figs.1-2) which may be separated or brought in closely to hold defibrillators in place (col.4, lines 47-51). Lacking any criticality, to have substituted one holding mechanism for another would have been an obvious, if not arbitrary, selection to one of ordinary skill.

Allowable Subject Matter

10. Claims 36 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 1-8, 10-27, and 31-33 are allowed.

Art Unit: 3762

12. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a). Corrected Formal Drawings are now required.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

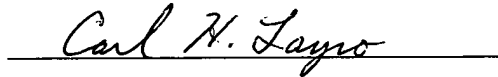
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (703) 308-3694. The examiner can normally be reached on Monday thru Thursday from 9 AM to 6 PM and every other Friday between 9AM and 5PM. A voice mail or E-mail message (carl.layno@uspto.gov) may be left if desired.

Art Unit: 3762

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (703) 308-5181. All faxed correspondence should be sent to the Office's new Official FAX number (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Legal Instruments Examiner (LIE) Brenda Webb whose telephone number is (703) 305-7520.

A handwritten signature in cursive script, reading "Carl N. Layno", is written over a horizontal line.

CARL LAYNO
PRIMARY EXAMINER

CHL

8/16/2004